

SENATE BILL 405

Unofficial Copy  
R3

2003 Regular Session  
3r1674  
CF 3r2339

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By: **Senator Jimeno**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Subsequent Offenders - Penalties**

3 FOR the purpose of expanding the types of alcohol- and drug-related driving offenses  
4 for which certain persons convicted of certain subsequent offenses are subject to  
5 certain mandatory minimum penalties of imprisonment for certain periods of  
6 time; limiting the circumstances under which certain home detention is included  
7 within the meaning of "imprisonment"; repealing certain mandatory minimum  
8 penalty options for community service for certain persons convicted of certain  
9 subsequent offenses; expanding the types of alcohol- and drug-related driving  
10 offenses for which a court is required to order certain persons convicted of  
11 certain subsequent offenses to undergo a certain alcohol abuse assessment and  
12 to participate in a certain alcohol program under certain circumstances; and  
13 generally relating to penalties for certain persons convicted of certain  
14 subsequent alcohol- and drug-related offenses under certain circumstances.

15 BY repealing and reenacting, without amendments,  
16 Article - Transportation  
17 Section 21-902  
18 Annotated Code of Maryland  
19 (2002 Replacement Volume)

20 BY repealing and reenacting, with amendments,  
21 Article - Transportation  
22 Section 27-101(j)  
23 Annotated Code of Maryland  
24 (2002 Replacement Volume)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Transportation**

2 21-902.

3 (a) (1) A person may not drive or attempt to drive any vehicle while under  
4 the influence of alcohol.

5 (2) A person may not drive or attempt to drive any vehicle while the  
6 person is under the influence of alcohol per se.

7 (b) A person may not drive or attempt to drive any vehicle while impaired by  
8 alcohol.

9 (c) (1) A person may not drive or attempt to drive any vehicle while he is so  
10 far impaired by any drug, any combination of drugs, or a combination of one or more  
11 drugs and alcohol that he cannot drive a vehicle safely.

12 (2) It is not a defense to any charge of violating this subsection that the  
13 person charged is or was entitled under the laws of this State to use the drug,  
14 combination of drugs, or combination of one or more drugs and alcohol, unless the  
15 person was unaware that the drug or combination would make the person incapable  
16 of safely driving a vehicle.

17 (d) A person may not drive or attempt to drive any vehicle while the person is  
18 impaired by any controlled dangerous substance, as that term is defined in § 5-101 of  
19 the Criminal Law Article, if the person is not entitled to use the controlled dangerous  
20 substance under the laws of this State.

21 27-101.

22 (j) (1) In this subsection, "imprisonment" includes confinement in:

23 (i) An inpatient rehabilitation or treatment center; or

24 (ii) Home detention that includes electronic monitoring FOR THE  
25 PURPOSE OF PARTICIPATING IN A DRUG OR ALCOHOL TREATMENT PROGRAM  
26 CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

27 (2) A person who is convicted of a violation of [§ 21-902(a)] § 21-902 of  
28 this article within 5 years after a prior conviction under that [subsection] SECTION is  
29 subject to a mandatory minimum penalty of[:] IMPRISONMENT FOR NOT LESS THAN  
30 5 DAYS.

31 [(i) Imprisonment for not less than 5 days; or

32 (ii) Community service for not less than 30 days.]

33 (3) A person who is convicted of a third or subsequent offense under [§  
34 21-902(a)] § 21-902 of this article within 5 years is subject to a mandatory minimum  
35 penalty of[:] IMPRISONMENT FOR NOT LESS THAN 10 DAYS.

1                    [(i)      Imprisonment for not less than 10 days; or

2                    (ii)     Community service for not less than 60 days.]

3                    (4)      A person who is convicted of an offense under [§ 21-902(a)] § 21-902  
4 of this article within 5 years of a prior conviction of any offense under that  
5 [subsection] SECTION shall be required by the court to:

6                    (i)      Undergo a comprehensive alcohol abuse assessment; and

7                    (ii)     If recommended at the conclusion of the assessment, participate  
8 in an alcohol program certified by the Department of Health and Mental Hygiene as  
9 ordered by the court.

10                  (5)      The penalties provided by this subsection are mandatory and are not  
11 subject to suspension or probation.

12      SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
13 effect October 1, 2003.